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Subject: usdoj vs Mocrosoft settlement comments

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Please find below my personal opinion regarding the proposed settlement of the USDOJ vs. Microsoft.

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The proposed settlement to allow as punishment the distribution of Microsoft software is not punishment in any measure. It does not deter Microsoft, but is a reward to Microsoft by increasing its market share. The actual cost to Microsoft is not real money damages. The settlement would damage competitors as it does not remove Microsoft's competitive advantage. A settlement would absolve Microsoft of the responsibility and damage found in a determination by the court. The settlement does nothing to remove the complete and monopolistic control Microsoft has over a resource on which our businesses and government are dependent. The settlement would result in continued and further damage to consumers, small and large businesses and governmental agencies.

As the proposed settlement stands now, only consumers and Microsoft's competitors are damaged. The proposal rewards Microsoft by letting them buy their way out of being a responsible competitor. As with previous cases brought against Microsoft, the outcome is not admissible to future cases because most or all have been settled out of court and out of the public eye. If this happens with this case, the appearance, or view of the courts is that Microsoft has done nothing wrong. While in reality, Microsoft's consistent approach is to take advantage of any and all competitors until they are absorbed, defeated, or driven out of the market.

For Microsoft, the "settlement amount" is only an appearance of cost; the actual cost would be but a fraction of the "settlement amount". As with any donation, a business can only deduct the costs of the materials required to produce a product and not the retail price of this product. If Microsoft provides their "available" products at "retail prices", Microsoft's actual cost would be minimal and loss of actual sales would also be low. If

Microsoft provided products at an actual cost basis equal to the proposed settlement, the market would truly be overwhelmed with Microsoft's products further diminishing any competitors chances of earning market share.

The proposal increases Microsoft's market share by dumping "free" software into the market without the market choosing the best or preferred product. This directly displaces any competitors product since any competitive manufacture could only compete by giving away free it's software. The proposal does not address the funding of competitive and alternative software directly opposed to Microsoft's own interest.

The consumer is the most damaged party in this settlement. There is no monetary relief to the consumer. There would be no growth of a competitive market that would bring lower prices and innovative products to the consumer. The scope of innovation continues to move away from a collective process as was the case with UNIX Operating System of 30 years ago and moves closer toward control by one company -- (Microsoft).

Microsoft has no regulatory oversight body, yet its operating system is virtually mandatory for more than 90% of consumers, business or government agencies to participate and communicate through our computerized world. By the nature of the license agreement to use Microsoft products, the computerized world is at risk to Microsoft's decisions and whims. What would happen if Microsoft chose to remove itself from the market? While unlikely, it is important to ask the question to realize the scope and impact the Microsoft monopoly has upon our lives.

The proposed settlement is just that, a settlement without any resolution, a settlement with no direction to create competition and innovation, a settlement that begs the question, "What good is a settlement if it provides no resolution"?

In my opinion, what needs to happen is:

1. For Microsoft to open its architecture to public control.
2. That architecture should be moved in a direction that allows new and existing operating systems to share and compete in the OS market.
3. That Microsoft funds the research in this direction, funding for new and existing competitive operating systems.
4. That all proprietary advantage Microsoft has between its OS and other Microsoft software products be removed or opened to allow competitors equal programming advantage.
5. That Microsoft shall be overseen in its contracting and licensing so as to provide no strong arm tactics in its negotiations and sales of its products.
6. That the license of all previously sold Microsoft operating systems be rewritten to give ownership of the usage to the consumer while allowing copyright to be maintained by Microsoft unless it can be shown that copyright previously belonged to a competitor.
7. That Microsoft should make available for sale, but without support, all previous Microsoft operating systems at a fair market price so that upgrades

are not mandatory to expand your system of computers.

Microsoft has far too much influence on our lives and our businesses and our world's security. The proposed settlement is of no benefit and should not be considered.

Sincerely,

Donovan R. McKinney